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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,151	06/16/2005	Ulrich Berens	VT/95-22814/A/PCT	2741
324	7590	01/24/2008	EXAMINER	
JoAnn Villamizar			NOLAN, JASON MICHAEL	
Ciba Corporation/Patent Department			ART UNIT	PAPER NUMBER
540 White Plains Road			1626	
P.O. Box 2005				
Tarrytown, NY 10591				
MAIL DATE		DELIVERY MODE		
01/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/539,151	BERENS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jason M. Nolan, Ph.D.	1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 November 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 18-24,31-36 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 18,19,21,22,32 and 35 is/are allowed.
- 6) Claim(s) 20,23,36 and 41 is/are rejected.
- 7) Claim(s) 24,31,33 and 34 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

This Office Action is responsive to Applicants Amendment – After Non-Final Rejection, filed 11/05/2007. **Claims 18-24, 31-36, & 41** are pending in the instant application; of which **Claims 18, 20, 23, 24, & 31-36** are currently amended and **Claim 41** is new.

### *Response to Amendment*

Applicant's amendments with respect to **Claims 18, 20, 23, 24, & 31-36** have been fully considered and are entered. The 112-indefinite rejections of **Claims 18 & 32** are withdrawn per amendment. The 102-prior art rejections of **Claims 20, 23, 24, & 36** are withdrawn per amendment. The Claim Objections to **Claims 33, 19, 21, & 22** are withdrawn per amendment.

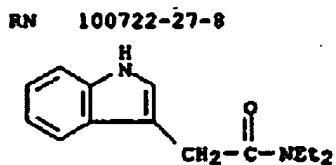
### *Response to Arguments*

Applicant's arguments filed with respect to Claim Objections to **Claims 24, 31, 33, & 34** have been fully considered but they are not persuasive. Applicant states "the present compounds find utility...." However, relevant **Claims 24, 31, 33, & 34** are not drawn to compounds; they are drawn to a process. The scope of the term, "a tryptamine derivative" is different than the scope of formula XV (**Claim 24**), for instance, but the language following said term, "comprising said process" limits the scope to back to formula XV. Therefore the entire term is redundant and should be deleted.

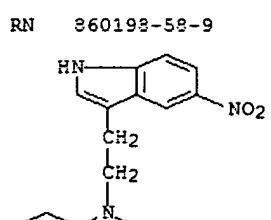
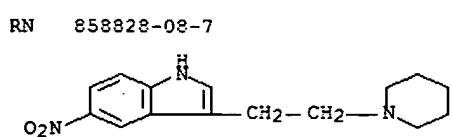
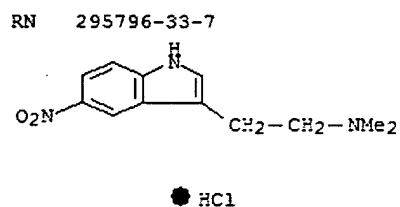
***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

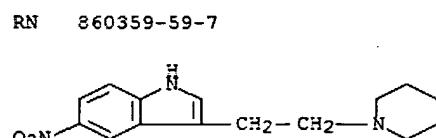
**Claim 20** is rejected under 35 U.S.C. 102(b) as being anticipated by Wegler et al. (*Arch. Pharm.* 1937, 275, 506-16). Shown below is compound RN 100722-27-8, taught in the reference, which anticipates **formula XII** wherein **n** = 0; **R2** = H; **R3 & R4** = ethyl.



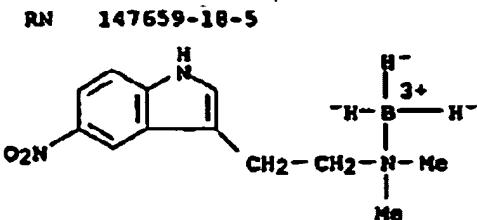
**Claim 23** is rejected under 35 U.S.C. 102(b) as being anticipated by Shaw et al. (*J. Amer. Chem. Soc.* 1953, 75, 1877-81). Taught in the reference are compounds RN 295796-33-7, RN 858828-08-7, RN 860198-58-9, and RN 860359-59-7, shown below, which anticipate **formula XIV** wherein **n** = 1; **R1** = nitro; **R2** = H; **R3 & R4** = alkyl and bridged alkyls.



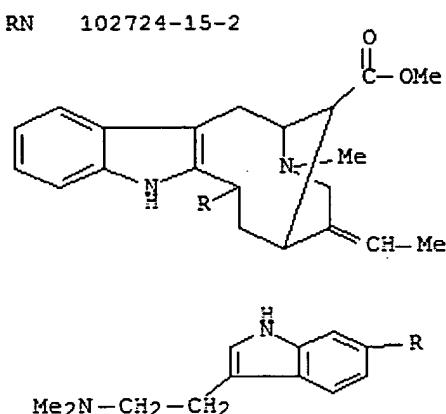
● HCl



**Claim 36** is rejected under 35 U.S.C. 102(b) as being anticipated by Macor *et al.* (*Syn. Comm.* 1993, 23(1), 65-72). Shown below is compound RN 147659-18-5 which anticipates **Formula XIIa** wherein n = 1; R2 = H; R3 & R4 = methyl.



**Claim 41** is rejected under 35 U.S.C. 102(b) as being anticipated by Baudouin *et al.* (*J. Chem. Soc.* 1986, 1, 3-4). Taught in the reference is compound RN 102724-15-2, which anticipates **formula XIV<sup>1</sup>** wherein n = 1; R1 = a substituted heterocycle; R2 = H; R3 & R4 = methyl.



***Claim Objections***

**Claims 24, 31, 33 & 34** recite the term, "or a method for the synthesis of a tryptamine derivative comprising said process." This term objected to as being redundant, i.e. not further limiting subject matter and not adding a patentable contribution to the claim. Deletion of this term is suggested.

***Allowable Subject Matter***

**Claim 18** (the transformation of formula III to formula II is novel) and **Claims 19, 21, 22, 24** which depend thereon are free of the prior art.

**Claim 31** (the transformation of formula XIV to formula XX<sup>6</sup>) is free of the prior art.

**Claim 32** (formulae XIV<sup>5</sup> and XX<sup>6</sup>) is free of the prior art.

**Claim 33** (the transformation of formula XX<sup>6</sup> to formula XXI\*\*) is free of the prior art.

**Claim 34** (the transformation of formula XX<sup>6</sup> to formula XXI\*) is free of the prior art.

**Claim 35** (the transformation of formula XIV to formula XX<sup>7</sup>) is free of the prior art.

**Claim 41** (in part: formulae II<sup>1</sup> and XII<sup>1</sup>) are free of the prior art.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

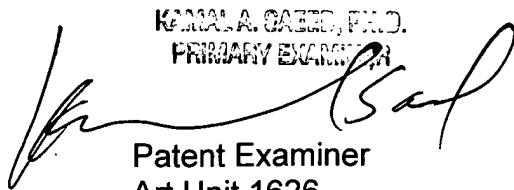
***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jason M. Nolan, Ph.D.** whose telephone number is **(571) 272-4356** and electronic mail is [Jason.Nolan@uspto.gov](mailto:Jason.Nolan@uspto.gov). The examiner can normally be reached on Mon - Fri (9:00 - 5:30PM). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Joseph M<sup>c</sup>Kane** can be reached on **(571) 272-0699**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



1-22-08

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